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BEFORE THE
ILLINOIS COMMERCE COMMISSION

PUBLIC UTILITY SPECIAL OPEN MEETING

Chicago, Illinois
May, 6, 2010

Met, pursuant to notice, at 9:30 a.m.

BEFORE:

MR. MANUEL FLORES, Acting Chairman

MS. LULA M. FORD, Commissioner

MS. ERIN M. O'CONNELL-DIAZ, Commissioner

MR. SHERMAN J. ELLIOTT, Commissioner
(via video conference)

MR. JOHN T. COLGAN, Acting Commissioner
(via video conference)

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1 CHAIRMAN FLORES: Are we ready in Springfield?

2 JUDGE WALLACE: Yes, Mr. Chairman.

3 CHAIRMAN FLORES: Pursuant to the provisions of
4 the Illinois Open Meetings Act, I now convene a
5 Special Open Meeting of the Illinois Commerce
6 Commission.

7 With me in Chicago are Commissioners
8 Ford and O'Connell-Diaz. With us via video
9 conference in Springfield are Commissioner Elliot and
10 Acting Commissioner Colgan, I am Acting Chairman
11 Flores.

12 We have a quorum.

13 Before moving into the agenda,
14 according to Section 1700.10 of the Illinois
15 Administrative Code, this is the time we allow
16 members of public to address the Commission. Members
17 of the public wishing to address the Commission must
18 notify the Chief Clerk's Office at least 24 hours
19 prior to the meeting of the Commission. According to
20 the Chief Clerk's Office, we have no requests to
21 speak for today.

22 Moving into the agenda, we start with

1 Docket Nos. 09-0306 through 09-0311. This is the
2 Ameren Illinois Utility's rate case. We entered an
3 Order on this case on April 29th and since that time
4 a couple of accounting errors have been brought to
5 our attention. We have a corrected Order on the
6 agenda for today to address those two errors. We
7 have also have an emergency motion brought by the
8 Ameren Illinois Utility seeking correction of these
9 errors and other alleged errors in the appendices.

10 Let's address the corrected Order
11 first. I believe this Order corrects two accounting
12 errors identified by Staff. The first error is on
13 the calculation of cash working capital where the
14 function of this error is to underestimate the Ameren
15 Illinois Utility's revenue requirement by
16 approximately \$9.7 million.

17 The second error concerns a mistake in
18 the spreadsheet formula affecting only AmerenCILCO's
19 electric operations and this mistake serves to
20 understate the Ameren Illinois Utility's revenue
21 requirement by approximately \$214,000. These errors
22 were identified by Staff after we served today's

1 Order on the parties and the corrective Order is
2 meant to remedy both these errors.

3 Is there any discussion of the
4 corrected order?

5 (No response.)

6 Is there a motion to adopt the
7 corrected Order?

8 CHAIRMAN COLGAN: So moved.

9 CHAIRMAN FLORES: Is there a second?

10 COMMISSIONER O'CONNELL-DIAZ: Chairman, if I
11 have just might ask, the corrections were identified
12 by Staff, but were they not identified in the
13 compliance filing by the company?

14 CHAIRMAN FLORES: I don't know. They may have.
15 I do not know that answer.

16 COMMISSIONER O'CONNELL-DIAZ: We were served
17 with copies of the compliance filing by the company.

18 CHAIRMAN FLORES: What we are dealing with
19 right now is the corrected Order put forth by the
20 Commission. That's what we're deciding right now.

21 COMMISSIONER O'CONNELL-DIAZ: I'm just trying
22 to clarify the record.

1 CHAIRMAN FLORES: The record is that we are
2 dealing right now with a corrected Order put forth by
3 the Commission. That's what we're deciding right
4 now. There is a motion to adopt the corrected Order
5 by the Commission. That is the motion that is being
6 considered right now.

7 Is there a second?

8 COMMISSIONER ELLIOTT: Second.

9 CHAIRMAN FLORES: Its been moved and seconded.

10 All in favor say "aye."

11 (Chorus of ayes.)

12 Any opposed?

13 COMMISSIONER FORD: Nay.

14 COMMISSIONER O'CONNELL-DIAZ: Nay.

15 CHAIRMAN FLORES: Let the record reflect that
16 there are three in support, two opposed. Let's go
17 ahead and take roll call.

18 Commissioner Ford?

19 COMMISSIONER FORD: Nay.

20 CHAIRMAN FLORES: Commissioner O'Connell-Diaz?

21 COMMISSIONER O'CONNELL-DIAZ: Nay.

22 CHAIRMAN FLORES: Commissioner Elliott?

1 COMMISSIONER ELLIOTT: Aye.

2 CHAIRMAN FLORES: Acting Commissioner Colgan?

3 COMMISSIONER COLGAN: Aye.

4 CHAIRMAN FLORES: Acting Chairman Flores votes

5 aye.

6 The vote a 3-2 and the corrected Order

7 is entered.

8 While this vote addresses some portion

9 of the issues raised in Ameren's emergency motion

10 filed on Tuesday, there are still other issues

11 remaining. Ameren's emergency motion referenced

12 alleged errors concerning cash, working capital and

13 severance cost adjustments, accumulated depreciation

14 reserve, accumulated deferred income taxes and

15 revenue lag associated with past through taxes.

16 Staff filed a response on Wednesday

17 agreeing that there are errors consistent with the

18 errors identified in the corrected Order, but

19 disagreeing that the other issues identified by

20 Ameren constitute errors and suggesting that the

21 Utility address these issues through rehearing.

22 Ameren filed a reply late yesterday.

1 ALJ Albers and Yoder are in agreement with Staff's
2 assessment regarding what constitutes errors and
3 recommends denying the motion to the extent it is
4 inconsistent with the corrected Order.

5 Is there any discussion?

6 COMMISSIONER O'CONNELL-DIAZ: Judge Albers, I
7 have before me a memo from you and Judge Yoder with
8 regard to the emergency motion and in that I do not
9 find the discussion relative to the reply that was
10 filed by the company. Was that considered -- or I
11 think I got this before they had filed that -- so we
12 don't have a rundown of the arguments presented by
13 the company in their reply, do we, in your memo?

14 JUDGE ALBERS: No, because we issued the memo
15 before the reply came in. We did not know the reply
16 was coming, but we did look at it this morning and I
17 am not prepared to change our recommendation. I
18 still am uncertain as of the three alleged errors.

19 COMMISSIONER O'CONNELL-DIAZ: And with regard
20 to -- I guess I'm confused in that it appears that
21 the majority has accepted the IIEC's correction to
22 AIU's adjustment pursuant to the Order that was

1 entered. And it seems that whatever calculation has
2 been done to the accumulated depreciation reserve
3 utilizes a hybrid calculation as opposed to the
4 IIEC's calculation.

5 Is there anything that would help me
6 understand in Staff's reply why that was utilized
7 when they ran the numbers on that?

8 JUDGE ALBERS: I don't think so. That's
9 certainly Ameren's argument. I just couldn't tell
10 you right now if that's accurate or not.

11 COMMISSIONER O'CONNELL-DIAZ: And if my
12 recollection serves me properly, which sometimes it
13 doesn't, the IIC number on this issue and the AG
14 number were some \$23 million apart with regard to
15 that issue in the case in chief.

16 MR. HICKEY: Commissioner, this is Steve
17 Hickey. My memory is not that great either, but I
18 believe that the IIC and AG had different positions.
19 I don't remember exactly what the differences were.

20 COMMISSIONER O'CONNELL-DIAZ: But if they had
21 different positions and we're adopting the IIEC's --
22 or the majority is adopting the IIEC's position, I'm

1 kind of left -- I think Staff suggested that in their
2 reply to the emergency motion they suggest that since
3 they proposed different amounts that the Commission
4 would independently use a different calculation,
5 which to me means a hybrid, I think.

6 MR. HICKEY: Well, I think something to
7 understand here is that when the ALJs put their
8 Proposed Order together and we adopted a position,
9 for example, of IIC, the AG or Staff, we typically
10 work with our accounting assistant to make sure or
11 try to make sure that we correctly reflect the entire
12 adjustment. And sometimes whether it's the IIC, the
13 AG or Staff, we don't believe that the entire
14 calculation or quantification contained in a
15 particular party's proposal is completely accurate or
16 carried all the way through and that's essentially
17 the problem we have here.

18 It was clear to us, for example, that
19 in calculating cash versus capital that the appendix
20 to the Order, for example, incorrectly calculated the
21 lag days for revenue. With regard to this other
22 issue, we just have not had enough time. Again, this

1 is something that the Commission adopted different
2 than the Proposed Order --

3 COMMISSIONER O'CONNELL-DIAZ: I understand
4 that. I've sat in that seat and I know where you're
5 at. You're trying to understand what the thought
6 process was behind this other result that we have in
7 the Proposed Order which is different than what Judge
8 Yoder and Judge Albers recommended in their
9 recommendation to the Commission for the \$55 million
10 rate increase. So I thank you. I appreciate your
11 candor.

12 MR. HICKEY: Sure.

13 CHAIRMAN FLORES: Is there any other discussion
14 at this time?

15 (No response.)

16 Is there a motion to deny the
17 emergency motion?

18 CHAIRMAN ELLIOTT: So moved.

19 CHAIRMAN FLORES: Is there a second?

20 COMMISSIONER COLGAN: Second.

21 CHAIRMAN FLORES: It's been moved and seconded.

22 All in favor say "aye."

1 CHAIRMAN FLORES Aye.

2 Any opposed?

3 COMMISSIONER FORD: Nay.

4 COMMISSIONER O'CONNELL-DIAZ: Nay.

5 CHAIRMAN FLORES: Let the record reflect that

6 the vote is 3-2. We'll do a roll call vote so that

7 the record is clear.

8 Commissioner Ford?

9 COMMISSIONER FORD: Nay.

10 CHAIRMAN FLORES: Commissioner O'Connell-Diaz?

11 COMMISSIONER O'CONNELL-DIAZ: Nay.

12 CHAIRMAN FLORES: Commissioner Elliott?

13 COMMISSIONER ELLIOTT: Aye.

14 CHAIRMAN FLORES: Acting Commissioner Colgan?

15 COMMISSIONER COLGAN: Aye.

16 CHAIRMAN FLORES: Acting Chairman Flores votes

17 aye.

18 The vote is 3-2 and Ameren's emergency

19 motion is denied.

20 We also have a procurement Item on

21 today's agenda --

22 COMMISSIONER O'CONNELL-DIAZ: Chairman, if I

1 might?

2 CHAIRMAN FLORES: Yes, ma'am.

3 COMMISSIONER O'CONNELL-DIAZ: I just have a
4 comment to make with regard to the case that was just
5 voted. After last week there were many things that
6 were being said and I just want to clarify for the
7 record some things that I saw out there. And forgive
8 me, I don't have a speech writer on my staff, so I
9 will have to clarify in my simple words about where I
10 find myself in this case.

11 Unlike some of the comments from the
12 majority that seem to suggest that Commissioner Ford
13 and I had not done our due diligence with regard to
14 this case, let's get one thing clear, for weeks prior
15 to the vote on this matter our offices had asked for
16 clarification of the numbers and rate impacts for
17 each of the provisions to the ALJs Proposed Orders.
18 These revisions were supported in total by the
19 majority.

20 This stack of papers reflects the
21 numerous drafts of information that was tendered to
22 us during the weeks leading up to the vote. We would

1 review the items that were given to us only to be
2 told the numbers were incorrect and we would get new
3 drafts. The day of the vote, surprisingly, none of
4 the numbers added up. It was apparent from our
5 discussion last week that none of the majority could
6 articulate or, in fact, do a rate impact of each of
7 the revisions when we asked.

8 As Acting Chairman Flores stated in
9 his press conference, Our responsibility is not to
10 raise rate or lower rates, it's to make the decision
11 based on the evidence. With that I would agree, but
12 it is a fundamental tenet of a regulator to know the
13 rate effect of an item one is reviewing, and most
14 importantly, voting on. That is all Commissioner
15 Ford and I were asking for last week and, indeed, in
16 the weeks leading up to the vote. So here we are
17 today with what I would call a debacle that has
18 caused great concern in our state and on a national
19 level as to the competence of this Commission to
20 discharge its duties in compliance with the law.

21 In my 20 years with this Commission I
22 can never recall a similar incident. The lack of

1 collaboration on this Order and command and control
2 of the flow of information leaves me with a feeling
3 of unease and the seemingly result-driven process
4 that has occurred here makes me suspicious. It
5 should be noted that after the short recess a last
6 weeks meeting where the majority exited the bench and
7 went into a huddle and reappeared at bench, at no
8 time were Commissioner Ford and myself consulted or
9 conferred with by the group. The vote, as we saw,
10 was then rammed through.

11 This may be tolerated at other venues
12 or other council meetings, but it is not acceptable
13 in the proceedings of an adjudicatory body where our
14 duty is to apply the rules of law to the record
15 evidence. This debacle is certainly not the "product
16 a careful and thorough analysis of the evidence" as
17 suggested by the majority. I leave it to others to
18 conjure up their own rationales. Thank you.

19 CHAIRMAN FLORES: Thank you, Commissioner.

20 Any other discussion or comments on
21 the record? Thank you very much.

22 There is a procurement item on today's

1 agenda. We are scheduled today to vote on Ameren
2 Energy's request for proposal.

3 Is there a motion to accept the
4 results of Ameren's energy RFP?

5 COMMISSIONER ELLIOTT: So moved.

6 CHAIRMAN FLORES: Is there a second.

7 COMMISSIONER COLGAN: Second.

8 CHAIRMAN FLORES: Its been moved and seconded.

9 All in favor say "aye."
10 (Chorus of ayes.)

11 Any opposed?
12 (No response.)

13 The vote is 5-0 and the results of
14 Ameren's energy RPF are approved.

15 Judge Wallace, is there any other
16 items to be addressed at Today's Special Open
17 Meeting?

18 JUDGE WALLACE: No, Mr. Chairman.

19 CHAIRMAN FLORES: Thank you.

20 Hearing none, this meeting stands
21 adjourned.
22

1 (And those were all the
2 proceedings had.)
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